

*Secrets see all*

(13)

4-19-01  
*la*IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIASAMUEL BERTRELL MOORE,  
Petitioner

:

:

vs.

:

CIVIL ACTION NO. 1:CV-00-2148

:

DAVID ROMINE,  
Respondent

:

FILED  
HARRISBURG, PAORDER

APR 18 2001

MARY E. D'ANDREA, CLERK

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS: PER

*4/18*  
DEPUTY CLERK

Samuel Bertrell Moore, filed this 28 U.S.C. § 2241 petition pro se seeking credit on his federal sentence for some 400 days spent in custody before his federal sentencing in 1997 to 151 months for six counts of bank robbery. We are considering the Petitioner's objections to the report and recommendation of the magistrate judge. The magistrate judge has recommended that the petition be dismissed for failure to exhaust administrative remedies with the Bureau of Prisons.

The Petitioner argues that exhaustion should be excused because when he attempted to obtain a grievance form to begin the formal process, he was "told that 'it might be good idea to leave it alone,' and, 'people have lost good time for making a nuisance of themselves and filing frivolous paperwork that is a waste of time.'" (Doc. 8 at p. 5). Petitioner was intimidated by this

Certified from the record

Ecto

4-18-01  
Mary E. D'Andrea, Clerk*Robert J. Gaudre*  
Deputy Clerk




remark and believes that in these circumstances exhaustion should be excused.

We disagree. The Petitioner should exhaust the required remedies. If necessary, he can then return to federal court.

AND NOW, this 18th day of April, 2001, upon consideration of the report of the magistrate judge, dated March 7, 2001, the objections that have been filed, and independent review of the record, it is ordered that the magistrate judge's report is adopted. It is further ordered, pursuant to the magistrate judge's recommendation, that:

1. The petition under 28 U.S.C. § 2241 is dismissed for failure to exhaust administrative remedies.

2. The Clerk of Court shall close this file.



William W. Caldwell  
United States District Judge



UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

April 18, 2001

Re: 1:00-cv-02148 Moore v. USA

True and correct copies of the attached were mailed by the clerk  
to the following:

Samual Bertrell Moore  
FCI-SCHUYLKILL  
09644-050  
P.O. Box 759  
Minersville, PA 17954

Kate L. Mershimer, Esq.  
U.S. Attorneys Office  
Room 217, Federal Bldg.  
228 Walnut St.  
Harrisburg, Pa 17108

David Barasch  
US Atty's Office  
2nd Floor  
228 Walnut St.  
Harrisburg, PA 17108

cc:		
Judge	( )	( ) Pro Se Law Clerk
Magistrate Judge	( )	( ) INS
U.S. Marshal	( )	( ) Jury Clerk
Probation	( )	
U.S. Attorney	( )	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltf's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail to: US Atty Gen ( ) PA Atty Gen ( )



Bankruptcy Court ( )  
Other ( )

DA of County ( ) Respondents ( )

MARY E. D'ANDREA, Clerk

DATE: 4-18-01

BY: [Signature]  
Deputy Clerk